

INTRODUCED _____
PUBLIC HEARING _____
COUNCIL ACTION _____
EXEC. ACTION _____
EFFECTIVE DATE _____

County Council of Howard County, Maryland

2004 Legislative Session

Legislative Day No. 10

Bill No. 46-2004

Introduced by: The Chairman at the request of the County Executive

AN ORDINANCE supplementing Council Bill No. 23-2002, as supplemented, which provided for the issuance and reissuance of the County's Consolidated Public Improvement Commercial Paper Bond Anticipation Notes, Series C, (the "Notes") in order to provide for the issuance of an additional \$50,000,000 of the Notes, for the disbursement of the proceeds of such additional Notes, and for related purposes; and providing for and determining various matters in connection therewith.

Introduced and read first time _____, 2004. Ordered posted and hearing scheduled.

By order _____
Sheila M. Tolliver, Administrator

Having been posted and notice of time & place of hearing & title of Bill having been published according to Charter, the Bill was read for a second time at a public hearing on _____, 2004 and concluded on _____, 2004.

By order _____
Sheila M. Tolliver,
Administrator

This Bill was read the third time on _____, 2004 and Passed, Passed with amendments _____, Failed _____.

By order _____
Sheila M. Tolliver,
Administrator

Approved by the County Executive _____, 2004

James N. Robey, County Executive

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

Recitals

By July 1, 2002 (the "Initial Closing Date"), Howard County, Maryland (the "County") satisfied all conditions precedent for the initial issuance of its Howard County, Maryland Consolidated Public Improvement Commercial Paper Bond Anticipation Notes, Series C, in the initial maximum aggregate principal amount outstanding at any one time of \$60,000,000 (the "Notes") in accordance with Council Bill No. 23-2002 of the County Council of Howard County (the "County Council"), a bond issue authorization ordinance enacted and effective on June 5, 2002 (the "Original Note Ordinance"). The Original Note Ordinance was enacted pursuant to Council Bills Nos. 15, 40, 42, 43 and 45, enacted during the 1997 Legislative Session, Council Bills Nos. 16, 18, 19 and 27, enacted during the 1998 Legislative Session, Council Bills Nos. 19, 20, 22, 32, 33, 53 and 56, enacted during the 1999 Legislative Session, Council Bills Nos. 15, 17, 27 and 29, enacted during the 2000 Legislative Session, and Council Bills Nos. 18, 21 and 58, enacted during the 2001 Legislative Session, (collectively, the "Initial Bond Enabling Laws"), and (b) Section 12 of Article 31 of the Annotated Code of Maryland, as amended (the "Bond Anticipation Note Act").

In order to enhance the marketability of the Notes, Bank of America, N.A. (the "Bank"), entered into a Credit Agreement with the County dated as of July 1, 2002 (as amended, the "Credit Agreement"), pursuant to which the Bank has agreed to make advances (each, an "Advance") to an account of the County with Deutsche Bank Trust Company Americas (the "Issuing and Paying Agent") in an aggregate amount of up to \$60,000,000 outstanding at any time, later increased to \$90,000,000 (the "Commitment"), to provide funds for the payment of the principal of the Notes at their respective maturities. The County's payment obligations under the Credit Agreement are evidenced by a promissory note in favor of the Bank dated as of July 1, 2002 and amended and restated by a promissory note in favor of the Bank dated June 27, 2003 (the "Promissory

Note"). The expiry date under the Credit Agreement (the "Expiry Date") has been extended and is now July 31, 2006.

The Original Note Ordinance has been heretofore supplemented by (a) (i) Council Bill No.45-2002, enacted and effective on August 2, 2002, and (ii) Council Bill No.47-2002, enacted and effective on October 9, 2002 (collectively, the "2002 Supplemental Project Ordinances"), (b) Council Bill No. 46-2003, enacted and effective on August 1, 2003 (the "2003 Supplemental Project Ordinance"), and (c) Council Bill No. 1-2004, enacted and effective on January 21, 2004, as supplemented by Council Bill No. 2-2004, enacted and effective on January 23, 2004 (collectively, the "2004 Bond Sale Ordinance"), in order to (1) add Council Bills Nos. 24-2002, 25-2002 and 35-2002 (collectively, the "2002 Additional Bond Enabling Laws") and Council Bills Nos. 28-2003, 29-2003, 39-2003, 40-2003, 55-2003 and 56-2003 (collectively, the "2003 Additional Bond Enabling Laws") to the definition of "Bond Enabling Laws" in the Original Note Ordinance and (2) modify the definitions of "Projects" and the descriptions in the Original Note Ordinance of the costs of the Projects which can be financed with the proceeds of the Notes to add the additional Howard County Capital Projects and related bond authorizations and the revised bond authorizations for existing Projects provided for in the 2002 Additional Bond Enabling Laws and the 2003 Additional Bond Enabling Laws (collectively, the "Additional Projects"), and (c) modify Appendix II to the Original Note Ordinance by including as a part thereof the appendices attached to the 2002 Supplemental Project Ordinances, the appendix attached to the 2003 Supplemental Project Ordinance and Appendix II attached to the 2004 Bond Ordinance.

The Original Note Ordinance has also been supplemented by Council Bill No. 23-2003, enacted and effective on June 6, 2003 (the "2003 Supplemental Note Ordinance"), in order to, among other things, increase the maximum aggregate principal amount of the Notes authorized to be outstanding thereunder and

1 the maximum amount of Advances under the Credit Facility from \$60,000,000 to \$90,000,000. In addition,
2 Appendix II to the Original Note Ordinance included certain Projects and Project costs which were
3 authorized by Council Bills Nos. 26-2001 and 27-2001, both enacted on July 3, 2001 and effective on
4 September 3, 2001, among the Original Projects (the "Omitted Bond Enabling Laws"), but the Omitted Bond
5 Enabling Laws were not included in the list of Initial Bond Enabling Laws. The 2003 Supplemental Note
6 Ordinance also added the Omitted Bond Enabling Laws to the definition of "Bond Enabling Laws".

7 Accordingly, as used herein, the term "Existing Note Ordinance" means the Original Note Ordinance
8 as modified and supplemented by the 2002 Supplemental Project Ordinances, the 2003 Supplemental Project
9 Ordinances, the 2003 Supplemental Note Ordinance and the 2004 Bond Sale Ordinance.

10 On June 5, 2002, the County also enacted Council Bill No. 22-2002 (the "Original Bond
11 Ordinance"), pursuant to the Initial Bond Enabling Laws in order to provide for the issuance and sale of
12 \$60,915,000 in aggregate principal amount of its Consolidated Public Improvement Bonds, in one or more
13 series (the "Bonds"), in order to pay the Notes. The Original Bond Ordinance provides that it may be
14 supplemented to modify the definitions of "Bond Enabling Laws" and "Projects" thereunder so that such
15 terms will remain consistent with the definitions thereof in the Note Ordinance and the proceeds of the Bonds
16 may be used to refinance all of the Projects financed with the proceeds of the Notes.

17 The Original Bond Ordinance has also been heretofore supplemented by the 2002 Supplemental
18 Project Ordinances, the 2003 Supplemental Project Ordinance and the 2004 Bond Sale Ordinance, by
19 Council Bill No. 22-2003, enacted and effective on June 6, 2003 (the "2003 Supplemental Bond Ordinance"),
20 which increased the aggregate principal amount of the Bonds authorized to be issued pursuant to the Original
21 Bond Ordinance, as supplemented by the 2002 Supplemental Project Ordinances, and the 2003 Supplemental
22 Project Ordinance, by an additional \$91,375,000, and by Council Bill No. 24-2003, also enacted and effective

1 on June 6, 2003, as supplemented by Council Bill No. 25-2003, enacted and effective on June 12, 2003
2 (collectively, the "2003 Bond Sale Ordinance").

3 The 2003 Bond Sale Ordinance provided for, among other things, the issuance of the County's
4 consolidated public improvement bonds in the aggregate principal amount of \$94,770,000 (the "2003
5 Bonds"). \$54,895,000 in aggregate principal amount of such bonds was applied, together with \$5,105,000 of
6 premium on such bonds, to repay the initial \$60,000,000 in aggregate principal amount of the Notes. Such
7 principal amount of \$54,895,000 constitutes "Bonds" for purposes of the Original Note Ordinance, as
8 supplemented by the 2002 Supplemental Project Ordinances, the 2003 Supplemental Project Ordinance, the
9 2003 Supplemental Bond Ordinance and the 2003 Bond Sale Ordinance.

10 The 2004 Bond Sale Ordinance provided for, among other things, the issuance of two series of the
11 County's consolidated public improvement bonds in the aggregate principal amounts of \$112,305,000 and
12 \$21,000,000, for a total of \$133,305,000 (the "2004 Bonds"). \$48,290,000 in aggregate principal amount of
13 such bonds have been applied, together with \$1,710,000 of premium on such bonds, to repay \$50,000,000 in
14 aggregate principal amount of the Notes, thereby reducing the maximum aggregate principal amount of the
15 Notes authorized to be outstanding to \$40,000,000. Such aggregate principal amount of \$48,290,000 also
16 constitutes "Bonds" for purposes of the Original Note Ordinance, as supplemented by the 2002 Supplemental
17 Project Ordinances, the 2003 Supplemental Project Ordinance, the 2003 Supplemental Bond Ordinance, the
18 2003 Bond Sale Ordinance and the 2004 Bond Sale Ordinance.

19 The Original Bond Ordinance, as modified by the 2002 Supplemental Project Ordinances, the 2003
20 Supplemental Project Ordinance, the 2003 Supplemental Bond Ordinance, the 2003 Bond Sale Ordinance
21 and the 2004 Bond Sale Ordinance, is referred to herein as the "Existing Bond Ordinance". Appendix II to the

1 Note Ordinance, as such Appendix II may be supplemented from time to time, is incorporated by reference
2 into the Existing Bond Ordinance and made a part thereof.

3 On the date of final consideration hereof, but prior hereto, the Council has passed Council Bill No.
4 45-2004, which bill is intended to be presented to the County Executive for approval prior hereto (the
5 "Additional Supplemental Bond Ordinance") in accordance with the Existing Bond Ordinance to increase the
6 principal amount of the Bonds authorized to be issued thereunder by \$50,765,000 (the "Additional Bonds")
7 so that the principal amount of the Bonds which may be issued under the Bond Ordinance after the issuance
8 of the 2003 Bonds and the 2004 Bonds is at least \$91,375,000.

9 The County has now determined to enact this Ordinance to supplement the Existing Note Ordinance
10 to increase the maximum aggregate principal amount of the Notes authorized to be outstanding thereunder by
11 \$50,000,000 (the "Additional Notes") in anticipation of the issuance of the Bonds (including, without
12 limitation, the Additional Bonds). Accordingly, the maximum aggregate principal amount of the Notes
13 outstanding at any time under the Existing Note Ordinance as supplemented hereby shall be \$90,000,000,
14 subject to increase or decrease hereafter in accordance with the Note Ordinance.

15 **Now, therefore:**

16 **Section 1. Be it enacted by the County Council of Howard County, Maryland,** That all terms
17 used herein with an initial capital letter shall have the meanings given such terms in the Note Ordinance or in
18 the Recitals of this Ordinance, as applicable, unless the context clearly indicates a contrary meaning.

19 **Section 2. Be it further enacted by the County Council of Howard County, Maryland,** That the
20 Note Ordinance is hereby supplemented and amended as follows:

21 (a) On or after the date of the enactment of this Ordinance, the County, pursuant to the
22 Bond Enabling Laws and the Bond Anticipation Note Act and in accordance with the Note Ordinance, shall

1 borrow an additional \$50,000,000 and incur indebtedness in such amount in anticipation of the issuance of
2 the Bonds (including, without limitation, the Additional Bonds) by issuing and selling, upon the full faith and
3 credit of the County, the Additional Notes in the aggregate principal amount outstanding of \$50,000,000.

4 (b) The Additional Notes shall be considered to be "Notes" for all purposes of the Note
5 Ordinance and all references in the Note Ordinance to "Notes" and all covenants and agreements relating
6 thereto shall include the Additional Notes. In addition the Additional Bonds shall be considered to be
7 "Bonds" for all purposes of the Note Ordinance.

8 (c) Accordingly, the maximum principal amount of the Notes authorized to be
9 outstanding under the Note Ordinance after enactment of this Supplemental Ordinance is hereby increased to
10 \$90,000,000. (As provided in the Note Ordinance, the maximum principal amount of the Notes authorized to
11 be outstanding (i) shall be reduced by the proceeds of any Bonds issued in accordance with the Bond
12 Ordinance which are applied to the repayment of the principal of the Notes and (ii) may be further increased
13 or decreased by enactment of a Supplemental Ordinance in accordance with Appendix I to the Note
14 Ordinance.)

15 (d) Payment of the proceeds of the initial sale or sales of the Additional Notes (but not
16 the proceeds of any reissued Notes) shall be made to the Director of Finance and shall be set apart by her in
17 the separate account or accounts established under the Note Ordinance as the "Consolidated Public
18 Improvement Commercial Paper Bond Anticipation Notes, Series C Projects Fund" and shall be applied (i)
19 to pay all costs, fees and expenses incurred in the issuance and sale of the Additional Notes, to the extent such
20 fees, costs and expenses are not paid from other sources, (ii) to pay up to 12 months' interest on the
21 Additional Notes, and (iii) to defray a portion of the costs of the Projects in accordance with the Note
22 Ordinance.

1 (e) The proceeds of the sale of any Notes reissued after the initial issuance of the
2 Additional Notes described in subsection (d) above shall be used to repay maturing Notes (regardless of
3 whether or not such Notes were originally Initial Notes or Additional Notes) or to repay Advances under the
4 Credit Agreement or any other Liquidity Facility Agreement, all as provided in the Note Ordinance.

5 **Section 3. Be it further enacted by the County Council of Howard County, Maryland,** That
6 the Master Note Certificate, the Dealer Agreement, the Issuing and Paying Agency Agreement, the Letter of
7 Representations and any and all other documents relating to the Notes shall each be amended, supplemented
8 and/or restated to make any changes necessary to effect or provide prove the issuance of the Additional
9 Notes, if the County Executive determines any such amendments, supplements or restatements to be
10 necessary or desirable.

11 **Section 4. Be it further enacted by the County Council of Howard County, Maryland,** (a) That
12 any amendments or supplements to, or restatements of, the Master Note Certificate, the Dealer Agreement,
13 the Issuing and Paying Agency Agreement, Credit Agreement, the Promissory Note, the Letter of
14 Representations and any and all other documents relating to the Note shall be signed by the County
15 Executive by his manual signature and any amendment or supplement to, or restatement of, the Master Note
16 Certificate or the Promissory Note shall also be signed by the Director of Finance of the County (the
17 "Director of Finance") by her manual signature, and each such document shall bear the corporate seal of the
18 County, attested by the manual signature of the Chief Administrative Officer. In the event that any officer
19 whose signature shall appear on any of such documents shall cease to be such officer before the delivery
20 thereof, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer
21 had remained in office until delivery.

1 (b) The County Executive is hereby authorized, prior to execution and delivery of the
2 Additional Notes, to make such changes or modifications in the documents relating to the issuance and sale
3 of the Bonds (including, without limitation, any amendments or supplements to, or restatements of, the
4 Master Note Certificate, the Dealer Agreement, the Issuing and Paying Agency Agreement, the Credit
5 Agreement, the Promissory Note and the Letter of Representations) as may be required or deemed
6 appropriate by him in order to accomplish the purpose of the transactions authorized by this Ordinance;
7 provided that such changes shall be within the scope of the transactions authorized by this Ordinance; and the
8 execution by the County Executive of each of such documents shall be conclusive evidence of the approval
9 by the County Executive of (i) the final forms, terms, provisions, content and substance of such documents,
10 (ii) all changes or modifications in the forms of such documents, and (iii) the due execution of such
11 documents on behalf of the County; and each of such documents shall thereupon become binding upon the
12 County in accordance with its terms, as provided for in this Ordinance and the Note Ordinance.

13 (c) The County Executive, the Chief Administrative Officer, the Director of Finance and other
14 officials of the County are hereby authorized and empowered to do all such acts and things and to execute,
15 acknowledge, seal and deliver such documents and certificates, as the County Executive may determine to
16 be necessary to carry out and comply with the provisions of this Ordinance and the Existing Note
17 Ordinance, subject to any limitations set forth in the Bond Enabling Acts or this Ordinance.

18 **Section 7. Be it further enacted by the County Council of Howard County, Maryland, That,**
19 pursuant to and in accordance with the Bond Enabling Laws and the Bond Anticipation Note Act, the County
20 hereby finds and determines as follows:

21 (a) The Additional Notes are to be issued in anticipation of the issuance of the Bonds
22 (including, without limitation, the Additional Bonds) pursuant to the Bond Enabling Laws and the Bond

1 Ordinance, as heretofore and hereafter supplemented, and it is the intention of the County to pay the principal
2 of the Additional Notes initially from the reissuance of Notes at maturity and ultimately from the proceeds of
3 Bonds to be issued from time to time in one or more series.

4 (b) The probable average useful life of the Projects expected to be financed with the
5 proceeds of the Additional Notes is more than 25 years, and all of the Bonds and all of the Notes will be
6 payable within such period.

7 (c) The aggregate principal amount of the Additional Notes is within legal limitation on
8 the indebtedness of the County as set forth in Article VI of the Charter of the County.

9 **Section 8. Be it further enacted by the County Council of Howard County, Maryland,** That
10 prior to the enactment of this Ordinance, (a) the County has received an opinion of Bond Counsel to the effect
11 that this Ordinance is authorized or permitted by the Note Ordinance, the Bond Enabling Laws and the Bond
12 Anticipation Note Act, complies with their respective terms, will, upon the enactment thereof, be valid and
13 binding upon the County in accordance with its terms and will not adversely affect (i) the exclusion of the
14 interest payable on the Notes from the gross income of the Owners of the Notes for federal income tax
15 purposes pursuant to Section 103 of the Code, or (ii) the exemption of the Notes from state, county and
16 municipal taxation in the state; (b) the County has received evidence satisfactory to it that counterparts of
17 such opinion from Bond Counsel have also been delivered to the Issuing and Paying Agent, the Dealer and
18 the Liquidity Facility Provider; and (c) the Liquidity Facility Provider has consented to this Ordinance.

19 **Section 9. Be it further enacted by the County Council of Howard County Maryland,** That,
20 except as expressly modified and supplemented hereby, the Note Ordinance shall remain in full force and
21 effect; and the Note Ordinance, as modified and supplemented hereby, is ratified and confirmed.

1 **Section 10** Be it further enacted by the County Council of Howard County, Maryland, That
2 this Ordinance shall take effect on the date of its enactment.

3